

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Plaintiff, appearing *pro se*, filed the above-captioned case and seeks leave to proceed *in forma pauperis* under 28 U.S.C. § 1915. Plaintiff alleges a violation of his constitutional rights under 42 U.S.C. § 1983 against defendants the State of California, City of San Diego, and the County of San Diego. Plaintiff contends that California Penal Code Section 647(e) was determined to be unconstitutionally vague in *Kolender v. Lawson*, 461 U.S. 352 (1983) and yet defendants are still enforcing Section 647(e) in violation of the Fourteenth Amendment. Plaintiff also seeks a preliminary injunction.

1. *In forma pauperis* review

Plaintiff is currently unemployed, receives \$313.48 every two weeks from Workers Compensation, and receives aid from churches, food banks, and a homeless shelter. The only asset Plaintiff has of value is a 1991 Oldsmobile Cutlass Ciera. Given these circumstances, the Court grants plaintiff's request to proceed *in forma pauperis*.

2. Motion for preliminary injunction

The Court will defer consideration of plaintiff's motion for preliminary injunction until after the summons, complaint and this Order are served on defendants. When all defendants have been served, the Court will issue an order to show cause why a preliminary injunction should not be granted.

3. Conclusion

The Court hereby orders as follows:

(1) The request to proceed *in forma pauperis* is **GRANTED**.

(2) The United States Marshal shall serve a copy of the complaint, summons, and order granting leave to proceed *in forma pauperis* upon each defendant as directed by plaintiff on U.S. Marshal Form 285. All costs of service shall be advanced by the United States.

(3) Plaintiff shall serve upon each defendant or, if appearance has been entered by counsel, upon defendant's counsel, a copy of every further pleading or document submitted for consideration by the Court. Plaintiff shall include with the original paper to be filed with the clerk of the court a certificate stating the manner in which a true and correct copy of any document was served on defendant(s) or counsel for defendant(s) and the date of service. Any paper received by a district judge or a magistrate judge that has not been filed with the Clerk of Court or which fails to include a certificate of service will be disregarded by the Court.

IT IS SO ORDERED.

DATED: November 21, 2007

M. James Lorenz
M. James Lorenz
United States District Court Judge

COPY TO:

HON. NITA L. STORMES
UNITED STATES MAGISTRATE JUDGE

ALL PARTIES/COUNSEL

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